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See pp. 19 & 23.

In the Supreme Court of the United States.

Original, No. 2

October Term, 1910.

Office Supreme Court, U. S.
FILED.
FEB 6 1911
JAMES H. McKENNEY,
CLERK.

COMMONWEALTH OF VIRGINIA

vs.

STATE OF WEST VIRGINIA.

FINAL REPLY BRIEF FOR THE COMPLAINANT.

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Of counsel for Virginia.

In the Supreme Court of the United States.

Original, No. 3. October Term, 1910.

COMMONWEALTH OF VIRGINIA

vs.

STATE OF WEST VIRGINIA.

FINAL REPLY BRIEF FOR THE COMPLAINANT.

In view of the elaborate discussion of the case in the Master's Report, in the briefs heretofore filed, and in the recent exhaustive oral arguments of the cause, a succinct reply to some of the points presented in the two latest briefs for the defendant will suffice.

I.

POINTS NOW RELIED ON FOR THE DEFENDANT WHICH DO NOT GO TO THE MERITS.

The contention of counsel for the defendant in this branch of their argument is,

That Virginia has no right to maintain this suit—

1. Because she has no such interest in the subject matter of the litigation as gives her a standing to maintain it, denying that she has any equity either for exoneration, or for contribution.

2. Because she sustains a dual relation to the controversy in that she asserts, as is alleged, several independent causes of action, and sues in a dual capacity, namely, both in her own right, and as trustee for the depositing creditors—that therefore her bill is *multifarious*.

3. Because any duty or liability of West Virginia to make a settlement or to pay anything is not to Virginia, but to the creditors of the undivided State.

4. Because Virginia has been guilty of "laches."

A brief response will dispose of each of these points:

(1)

The statement that Virginia has no interest in this suit in her own right is founded in a singular misapprehension of the facts.

(a) VIRGINIA'S EQUITY FOR EXONERATION.

If a liability rests upon the Commonwealth to pay any part of the common public debt of the undivided State, that circumstance plainly entitles her to have West Virginia contribute to the payment of that common indebtedness to the extent of West Virginia's equitable liability therefor, in exoneration of Virginia.

The view of opposing counsel that no such liability rests upon Virginia is based upon a misapprehension of the meaning and effect of the Funding Act of March 30, 1871, under which over three-fourths of the common debt was funded. Virginia's liability under that Act is defined in the third section thereof.—I West Va's Compilation, pp. 14-15; R. pp. 17-19.

That the contention of counsel for West Virginia, that Virginia was released from all liability for the one-third of the $38,110,355.37 (including accrued interest capitalized and funded), of her old bonds, funded under that Act, by reason of the issue by her of the $12,703,451.79 of "Deferred Certificates" under the terms of the third section of that Act, is conclusively refuted by the decision of the Supreme Court of Virginia in the case of *Greenhow* v. *Vashon*, 81 Va. 342-343. In that case Judge Richardson, delivering the opinion of the court and quoting with approval the dictum of Judge Staples in *Antoni* v. *Wright*, 22 Gratt. 864-5, says:

"It is said that the creditor has released one-third of his debt. I do not so understand it, and I will hazard the assertion, the creditor does not so construe the law. If this was the intention of the framers of the act they have adopted an obscure and equivocal mode of expressing a plain and simple agreement. The creditor surrenders his bond and obtains a new one for two-thirds of his debt, and coupons for the interest. For the remaining one-third the bond is held in trust by the State, and a certificate is given him stating that payment will be provided for in accordance with such settlement as may be made with West Virginia. If that State is faithful to the obligations resting upon her, the creditor will receive the other third also. On the other hand, if she repudiates these obligations there is no agreement or understanding absolving the State from the payment of the whole debt as before the passage of the funding bill."

The following are the terms of the certificates issued under the Act of 1871:

"Copy of Certificate under Act of March 30, 1871.

"Commonwealth of Virginia.

"No. ———.

"Treasurer's Office, Richmond, Va.

"This is to certify that there is due unto ———— heirs, executors, administrators or assigns $———, being one-third of bond surrendered under the provisions of an Act approved March 30th, 1871, entitled, 'An Act to provide for the funding and payment of the public debt,' namely, Bond No. ——, with interest, amounting to $———. Payment of said one-third with interest thereon at the rate of six per cent. per annum will be provided for in accordance with such settlement as shall hereafter be had between the State of Virginia and West Virginia in regard to the public debt of the State of Virginia existing at the time of its dismemberment, and the State of Virginia holds said bonds so far as unfunded in trust for the holder hereof or his assigns."

"In testimony whereof this certificate has been signed by the Treasurer and countersigned by the Second Auditor, as provided by law.

"————————,

"Treasurer of the Commonwealth of Virginia.

"————————,

"Second Auditor of Virginia."

(R. 56-57; I West Va. Compilation 49).

Nor is it true, as gravely contended by West Virginia's counsel, that the subsequent, more or less abortive and ineffectual Funding Acts of March 28, 1879 (R. 21-26; and I West Va. Compilation 17-22), and of February 14, 1882 (R. 26-38; and I West Va. Compilation 22-40), released Virginia from any obligation or liability resting upon her under the Act of 1871 in reference to the third of the antecedent debt of the Commonwealth represented by the bonds deposited with her under that Act and expressed in the third section of the Act of 1871, and in the certificates issued thereunder.

Nor did the Act of February 20, 1892 (R. 38-47; 1 West Va. Compilation 32-40), under which a final adjustment of the two-thirds of the debt distinctly assumed by Virginia has been effected, release Virginia from any duty or obligations resting upon her in respect to the third of the bonds unfunded under the Act of 1871, or the certificates issued therefor.

It is true that each of said Funding Acts, subsequent to that of 1871, by its terms repealed the antecedent Funding Act or Acts: but while such repeal operated to stop any farther funding under such antecedent Acts, as it was designed to do, it could not, of course, operate to impair or affect the contract rights and obligations created by the Acts so repealed, or relieve Virginia from any contractual liability resting upon her under the provisions of those Acts. That such repeal could have any such effect is one of the extraordinary hallucinations into which defendant's counsel have fallen.

Neither the Acts of March 28, 1879, nor February 14, 1882, nor February 20, 1892, called for or required the surrender of any of the certificates issued under the Act of March 30, 1871; or for the substitution of other certificates therefor; or in the slightest degree modified or affected the status of those certificates of 1871, or any contract rights of the holders thereof, or any obligation or liability, contingent or otherwise, of Virginia in respect thereto.

It manifestly results from this, that Virginia has the right to invoke the equitable jurisdiction of this court for her exoneration from any liability resting upon her as to the portion of the common debt represented by the unfunded third of the bonds de-

posited with her under the Act of 1871, and evidenced by the certificates issued by her under that Act, to the extent of West Virginia's ratable equitable liability therefor.

(b) VIRGINIA HAS AN EQUITABLE CLAIM AGAINST WEST VIRGINIA FOR CONTRIBUTION—IN VIRGINIA'S OWN RIGHT.

If Virginia has paid any portion of the common debt resting upon both States, in full, she has an equity, in her own right, to reimbursment by West Virginia, to the extent of the ratable liability of the new State upon the obligations so paid off and redeemed by Virginia. This is the equity of contribution asserted in Paragraph XVI of the Bill (R. 13; 1 West Va. Compilation 10).

All the evidence in support of this claim has not been put into the cause any more than the evidence as to what the share of the recovery payable on any of the other obligations of the Commonwealth will be; and for the further reason that the court has not directed any such inquiry. There are, however, data, evidence, and authentic statements in the record which show that Virginia, since January 1, 1861, has paid off or taken up obligations for interest and for principal existing prior to January 1, 1861, amounting to a very large sum.

For instance, in payment for the Blue Ridge Railroad $625,348.08, Special Master's Report, pp. 47 and 84, and the record returned therewith, p. 487; Appendix to that Record, p. 45, Section 14 of the Act of March 1, 1867. And it also appears from the record that Virginia acquired $118,518.12 of her bonds for her claims against the Winchester & Potomac Railroad, of which $45,000.00 was paid in old bonds, and $66,130.90 in new registered bonds issued for interest upon the old debt. Special Master's Report, pp. 64 aad 84, Record, pp. 462 and 489, and Appendix p. 31.

In addition to this, the statement published as a part of Exhibit No. 3, filed with the bill, the Act of February 14, 1882, shows that Virginia paid on account of interest on old bonds held by the general public from January 1, 1861, to July 1, 1863, $3,662,434.55, and between July 1, 1863, and July 1, 1871, $3,594,289.11. The same public record shows that during the same period, and

before any funding of the share of the debt assumed by Virginia, she redeemed of the common debt dollar bonds to the amount of $3,710,449.67. R., pp. 27-32, 1 W. Va. Compilation, pp. 23-26.

Summarized, the following payments were made by Virginia upon the whole undivided debt in the period mentioned, as shown by said Act of February 14, 1882:

Paid, on account of interest, from Jan. 1, 1861, to July 1, 1871, on bonds held by the general public	$ 7,255,723.66
Dollar bonds redeemed during same period	3,710,449.67
Total sums paid	$10,966,173.33

The statement here referred to was made for the purpose of justifying the readjustment of the State debt proposed by said Act of February 14, 1882. That attempted readjustment proved so unsuccessful and abortive, that, while it was accepted by some of the creditors, chiefly those classes who were given by that Act the largest percentage of their claims in the new bonds tendered, the great mass of the bondholders of the State refused to accede to its terms. To such a large extent was this true, that "not less than twenty-eight million dollars of the public debt" remained, on the 20th of February, 1892, "unfunded under said Act approved February fourteenth, eighteen hundred and eighty-two," as appears from the recitals in the Act of February 20th, 1892. R. 39, 1 West Va. Compilation 32.—See Act of February 20, 1892, printed as Exhibit No. 4 with the bill: R. 38, 1 West Va. Compilation, p. 32.

In addition to the bonds issued under the Acts of February 14, 1882, and February 20, 1892, there were over $2,400,000 of bonds, held by certain educational corporations, which were recognized, assumed and provided for by the ancillary Acts of March 3, 1882, and February 23, 1892, and all of which obligations have since been redeemed and taken up by the Commonwealth, and the contracts represented thereby novated, by the issue of new obligations therefor, pursuant to the provisions of the Act approved February 23, 1892.

See copy of last mentioned Act and statement of bonds retired thereby in the Appendix to this brief.

The claim of Virginia, in her own right, for contribution, is not on account of any bonds issued by her after January 1, 1861, or on account of any bonds issued by her for the two-thirds of the original debt which she assumed, but on account of bonds outstanding prior to January 1, 1861, which were in the hands of the general public on that day, and interest thereon, which have been redeemed by Virginia and paid in full since January 1, 1861—obligations and interest thereon which constituted a part of the $33,897,073.82 of indebtedness ascertained by the Master to have been so outstanding on the 1st of January, 1861.—Masters Rep. 17.

The evidence as to what part of the debt Virginia had so paid off and so held was not called for by the decree of the court: nor was it of any interest to West Virginia for the precise amount of Virginia's interest in her own right to be determined. If she had paid *any portion* of the original debt of the undivided State she would have an equity for contribution against West Virginia and to participation in any recovery ratably and equitably to the extent that she was entitled to such reimbursement from West Virginia.

The record shows that she has paid millions of dollars, not counting such of the bonds held by institutions of learning as were outstanding prior to January 1, 1861, and as she redeemed, or retired under the provisions of the Act of February 23, 1892.

Upon this state of facts the equity of Virginia, in her own right, to contribution is fully sustained.

Either this, or the associated equity of exoneration, would be sufficient to support the jurisdiction of the court. But in addition to these there is her right to invoke the equitable jurisdiction of the court for an accounting with West Virginia in order to such a settlement between them as the complainant has a right to have.

(2)

The contention of West Virginia's counsel, that Virginia cannot maintain this suit because her bill is multifarious in that she,

as they charge, asserts several independent causes of action, and sues in a dual capacity, namely both in her own right and as trustee, has been heretofore fully argued, and effectually disposed of by this court upon the demurrer.—See briefs and oral arguments for complainant, 1 West Va. Compilation 233 to 236, 331 to 332, 333 to 336, 393 to 396; and decision of this court, Idem 434.

In absolute rebuttal of any such defence of multifariousness as is asserted here, see the admirable statement of the rule as now well established in this country given by the distinguished counsel for West Virginia, Mr. Hogg, in his work on Equity Procedure, Vol. I, Sec. 136, quoted at pp. 395-6, 1 West Va. Compilation.

The statement that Virginia is suing here in a dual capacity, namely, in her own right, and as trustee, is incorrect.

Virginia alone is the complainant. She sues distinctly and solely in her own right, and for her own relief and protection.

It is true that she also sustains a fiduciary relation to the bonds and evidences of the common indebtedness which have been confided to her by the creditors of the undivided State; but that circumstance was merely a proper, if not a necessary, incident of the contract she made with the common creditors for funding the two-thirds of their obligations which Virginia undertook to take care of.

It was an arrangement of convenience, if not of necessity, *which did not at all prejudice or affect any right of West Virginia.* Nor did it impair any right of Virginia.

To be sure the bill asks that all proper accounts may be taken to determine the balance due from the State of West Virginia to Virginia in her own right and as trustee: but such an accounting is not prejudicial to West Virginia. It would be merely incidental to an ascertainment of the amount which West Virginia owes.

It must be remembered that Virginia assumed the position of trustee as an essential part of the scheme for the settlement between the public creditors and herself. *She was not a mere volunteer, as were New Hampshire and New York in New Hampshire* v. *Louisiana, and New York* v. *Louisiana*, 108 U. S. 76. In those cases, neither New Hampshire nor New York had the remotest personal interest in the subject matter of the trust. The arrange-

ment in those cases was simply a device to evade the Eleventh Amendment to the Federal Constitution.

Here Virginia has a substantial personal interest in the trust subject. She is not only not a mere volunteer, but the creation of the fiduciary relation and her acceptance of it was a proper and essential part of the plan of settlement.

The trust devolved upon Virginia here was therefore not only a trust coupled with an interest, but a trust evolved from a common duty and a common obligation.

Virginia's position in this regard is radically different from that of the two plaintiff States in *New Hampshire* and *New York* v. *Louisiana*.

In the case of *United States* v. *Nashville, &c., Ry.* 118 U. S. 125, certain coupons were sued upon by the United States in its own name, the defense was interposed that they were held by the United States in trust for the Chickasaw nation of Indians, in pursuance of a treaty with them, and that the claim was barred by statute limitations on account of the United States having no interest except as trustee, and that the suit therefore could not be maintained. The court held, however, "they (the coupons) were held by the United States for a public use in its highest sense," and the suit was sustained.

It is also essentially different and stronger than the position of South Dakota in *South Dakota* v. *North Carolina*, for Virginia did not here buy herself into, or voluntarily accept, a controversy against another State. She merely, as was her right, and her duty to do, for her own protection, and at the same time in discharge of her duty to the common creditors, as a proper and essential incident of the settlement with them, accepted the fiduciary relation defined in the Funding Act of 1871 in reference to the bonds confided to her under that Act.

Even if she had been, by the terms of that Act, released entirely by the common creditors, upon the condition that she would by suit or otherwise secure a settlement with West Virginia for their benefit and her exoneration, she would, we think, clearly have a standing to maintain this suit: but as she was not so released there can be no question as to her right to maintain it, even if she had no personal claim for contribution, or for an accounting, on other equitable grounds.

Each of the grounds discussed under the last two general headings were fully argued, and considered, upon substantially the same state of facts which is now presented, when the cause was heard upon the demurrer, and was then unanimously decided by the court, adversely to the contentions of the defendant. No reason has been shown for overruling that decision in these regards, and we confidently rely upon the same.

See decision of the court upon the demurrer.—R. 132-137; 1 West Va. Compilation, 429-434.

(3)

THE DUTY AND OBLIGATION OF WEST VIRGINIA ARE TO MAKE A SETTLEMENT WITH VIRGINIA, AND NOT WITH THE BONDHOLDERS OF THE UNDIVIDED STATE.

So far, in all the acts and dealings of the two States upon this subject from the birth of West Virginia down to the filing, at the present term, of Parts I and II of the brief for the defendant, both States have acted upon the basis that any settlement would be, and would have to be, between the two States.

West Virginia, through her Governors, Debt Commissioners, and Legislature, has always heretofore recognized this. Her answer in this case, and her entire line of defence down to the present term has been distinctly upon this basis.

It is true that the preamble to the Virginia Funding Act of 1871 (R. 18; 1 West Va. Compilation 14) acquiesces in a settlement between West Virginia and the bondholders, if West Virginia shall so prefer; but that suggestion was in direct conflict with Section 19, of Article X of the then Constitution of Virginia, which commanded that,

> "Sec. 19. The General Assembly shall provide by law for adjusting with the State of West Virginia, the proportion of the public debt of Virginia, proper to be borne by the State of Virginia and West Virginia, and shall provide that such sum as shall be received from West Virginia shall be applied to the payment of the public debt of the State."

This declaration of that preamble was also in conflict with and rendered nugatory by Section 3 of that very Act, which ex-

pressly contemplates and provides for a settlement between the two States (R. 19: 1 West Va. Compilation 15).

No such line of defence is relied on or suggested in the Defendant's Answer. On the contrary that answer assumes and recognizes that any such settlement must be between the two States.—See particularly Paragraphs VIII. and XI.—R. 148, 149 to 154, and II West Va. Compilation 8, 10 to 15.

The entire defence of West Virginia, from the institution of this suit to the filing of the latest brief by her counsel, has been conducted upon this basis, and it is too late for the defendant in the very last stage of the litigation to adopt a different and inconsistent line of defence.

Apart from other influential considerations the compact arising under Section 8 of Article VIII of the first Constitution of West Virginia, and the Acts of the Legislature of Virginia and the United States Congress giving consent to the creation of the new State upon those terms, was a compact between the two States, which Virginia has the right to invoke the jurisdiction of this court to enforce.

(4)

This belated attempt to assert "laches" as a defence against Virginia is without merit.

It is based upon the singular assumption that Virginia is to blame, because she exhausted friendly negotiation before bringing her suit, and did not institute it until after her repeated overtures to West Virginia for an amicable adjustment had all been successively rejected.

Like other defences, unless disclosed by the bill, the defence of "laches" must be asserted in the answer or other defensive pleading.

Here it has never been set up by the answer, or other pleading, and is negatived by the allegations of the bill. It will not be allowed to be set up by amendment of answer long after the filing of same: or after the reference to a Master and the filing of his report.

Dixon v. *Dixon*, 1 Md. Ch. 171;
Thornton v. *Hantze*, 91 Ill. 199;
Webb v. *Fuller*, 83 Me. 405, 22 Atl. 384;
See also 16 Cyc. 176 and 177, and citations.

We ask leave, however, to briefly consider this defence as presented in defendant's brief, because of its relation to other equitable features of the cause.

The defence of "laches," in equity, is only permitted to defeat an acknowledged right on one or both of the following grounds:

(1) That it raises the presumption that the claim has been abandoned or satisfied.

(2) That the party pleading it has been seriously prejudiced by the culpable failure of the plaintiff to assert his claim.

Demuth v. *Old Town Bank*, 85 Md. 315, 37 Atl. 260, 268.
Coles v. *Ballard*, 78 Va. 139, 147;
Wisler v. *Craig's Adm'r*, 80 Va. 22, 30;
Cottrell v. *Watkins*, 89 Va. 101, 19 L. R. A. 754;
Johnson v. *Atlantic Gulf & West India Transit Co.*, 156 U. S. 618, 648;
Selbag v. *Abistbal*, 4 Maule & S., 462;
Morse v. *Seibold*, 147 Ill. 318, 35 N. E. 369, 371;
Hall v. *Otterson*, 52 N. J. Equity 522.

Not one of the grounds upon which such a defence must rest as shown by the authorities cited exists here.

(a) Any presumption of satisfaction of her share of the debt by West Virginia or of abandonment of her claim is absolutely rebutted by the proof that the new State has never paid, and has failed and refused to pay, a dollar on account of the Virginia debt, and that Virginia has persistently urged a settlement.

(b) Nor is there any evidence in the case showing, or tending to show that West Virginia has suffered prejudice from Virginia's forbearance to sue.

No evidence helpful to her has been lost. *The substantial proofs of the debt and of West Virginia's liability for it, are all matters of irrefutable record*, all of which have been kept and

preserved with wonderful accuracy and fidelity, so that the absolute verity of every item of the account and every entry upon those voluminous records, covering the transactions of forty years, has compelled the candid assent of the accountants and the counsel for West Virginia.

On the contrary West Virginia has profited enormously by her long delay in making a settlement with Virginia.

While Virginia has been struggling to meet her just obligations on account of this common debt, and has paid and assumed at least $75,000,000 as of the present year, most of her payments having been contributed years ago "from the scant resources of an impoverished people," West Virginia, husbanding her resources, and compounding her wealth, has not paid one cent.

Instead of her position and ability to pay having been impaired by this long delayed settlement, for the postponement of which she is largely responsible, she has profited so greatly by it, that her taxable resources have increased from a total assessed valuation of $126,060,743 in 1867, to $937,232,718.54 in 1908, an enhancement of 643 per cent.!—See Plaintiff's Exhibit E-3, R. 651.

It appears from this same authentic exhibit that the taxable resources of Virginia increased during the same period from $354,848,482.69 to $661,796,631, or only about 84 per cent.

That comparative schedule of taxable resources, fairly interpreted, demonstrates another thing, namely, that instead of being prejudiced by this lapse of time, West Virginia could, in her present prosperity and affluence—largely the result of the development of her territory by lines of railway which had their inception in the works which represent millions of dollars of Virginia's debt,—pay twenty million dollars to-day, with less inconvenience and less burden upon her people, than she could have paid two million dollars in 1867.

It may not be amiss to call attention to a somewhat conspicuous instance of *laches*, furnished by the defendant in this case, in this: That, although this litigation had been actively progressing and vigorously contested for five years before the cause was, in the spring of 1910, set down for a final hearing, during which long period every defence which the able and resourceful counsel for the defendant could suggest, was set up, no attempt was made

by them until this the very last stage of the litigation, when the issues had all been made up and the case submitted for decision to assert any one of several new and novel alleged grounds of defence which are presented for the first time in the brief filed and the oral arguments made for the defendant at the present term.

Moreover, the defense of laches cannot be interposed against a State. In *Armstrong* v. *The Morrill*. 14 Wal. 144-5, the court citing *Stoughton* v. *Baker*, 4 Mass. 526, holds that no laches can be imputed to the government and that time does not run against a State.

In *Metropolitan R.* v. *Dist. of Columbia*, 132 U. S. 11, the court through Mr. Justice Bradley says: "No restrictive laws apply to the sovereign unless so expressed. And especially no laws affecting a right on the ground of neglect or laches, because neglect or laches cannot be imputed to him. And it matters not whether the sovereign be an individual monarch, or a republic, or a State. The principle applies to all sovereigns. The reason usually assigned for this prerogative is that the sovereign is not answerable for the delinquencies of his agents. But whatever the true reason may be such is the general law—such is the universal law, except where it is expressly waived." See also *Wever* v. *Commissioners*, 18 Wal. 70. In *Gibson* v. *Chouteau*, 13 Wal. 99. *Lindsay* v. *Miller*, 6 Peters 673. *United States* v. *Knight*, 14 Peters 315. *United States* v. *Thompson*, 98 U. S. 489. *Gaussen* v. *United States*, 97 U. S. 584. *United States* v. *Nashville, &c., Ry.*, 118 U. S. 125, *supra*.

It is submitted that the transactions referred to in the cases relied on by the defendant related to such transactions as the protest of negotiable paper, or some entirely private matter where there was no public interest or duty whatever involved.

In *Bannock County* v. *Bell*, 101 American State Reports, 152-3. Note 2, it is stated as the universal rule that statutes of limitation should not run against a State nor can laches be imputed to it, although private parties may be interested along with the State in the matter sued on. See authorities there cited.

In the opinion of the court on the demurrer in this cause (V. I. p. 433 of West Virginia Compilation) the lapse of time is referred

to, but the demurrer is overruled and an order afterwards entered for an accounting upon the defendants answer which in no manner refers to the matter. This of itself should preclude the question of laches.

II.

UPON THE MERITS.

BASIC PROPOSITIONS ON WHICH THE CASE OF VIRGINIA RESTS.

West Virginia is liable for an equitable proportion of the Virginia debt:

(1) Under the benign principles of Equity and International Law;

(2) Under the conventional agreements and enactments—the constating Acts of the two States, and of the National Congress,—by virtue of which West Virginia came into being.

There is no essential conflict between these postulates. They have already been exhaustively discussed in their various aspects in the principal briefs, and in the oral argument of the cause. So that we deem it sufficient to briefly notice some of the salient points upon this branch of the case.

(1)

Some of the authorities which support the view that West Virginia owes an equitable share of the Virginia Debt under the rules of Equity and Public Law are collated in Appendix No. 1 to the brief of Virginia, printed at pages 163 to 167, Vol. II, West Virginia's Compilation. Others are cited in the briefs for complainant filed at the present term. For others we are indebted to Part III of defendant's brief—Mr. Spooner's contribution thereto. We will not undertake to review these authorities in detail.

An examination of them will show that they are not agreed as to the rule which should obtain in the case of the formation of a new State out of the territory of a pre-existing State. Some of the authorities sanction an apportionment of the antecedent public debt of the original State according to the relative population and areas of the two States. Others according to the taxable resources or revenues, or, what amounts to substantially the same thing, according to the taxable values of the two States.

In a case like this, it would, we respectfully submit, be fair to consider all of these as factors in the consideration and solution of

the problem. It would not be satisfactory to take total taxable values alone, for the reason that it is extremely difficult to determine accurately the relative values of taxable property—particularly the value of personal property in the two Virginias in June, 1863. Land constituted then, and at all times perhaps, the most reliable, stable, and just measure of values. The record shows that both lands and personal property were very greatly depreciated in value in June, 1863, in "Confederate Virginia" and in "Confederate West Virginia:" and that there was by no means any such depreciation in what may be termed "Federal West Virginia."

The Master finds that the depreciation in the value of real estate in "Confederate Virginia" and "Confederate West Virginia" amounted to 50 per cent. as compared with its value in 1860 or 1861, before the War.—Master's Report, pp. 155-6.

The Master was led into the error of accepting the inflated Confederate assessments of personal property in Confederate Virginia. The proofs tended very strongly to show,—a proposition which is undoubtedly a historic truth,—that the personal property in Virginia, including slaves, had depreciated in value in the aggregate at least 50 per cent. as a minimum, as compared with the aggregate value of the personal property in the same territory in 1860 or 1861, before the War.

We will not repeat the argument upon these points presented at pp. 57 to 64 of our principal brief.

They are here referred to and relied upon by way of introduction to the following proposition, namely, that:

Under the circumstances of this case, a fair basis for determining the equitable proportion of the Virginia Debt to be borne by West Virginia, would be to combine territorial area, population, and assessed values of land.

It must be conceded that the circumstances here presented are exceptional.

This case is not only exceptional, but peculiar,—*sui generis.*

As stated in our principal brief: "History furnishes no counterpart, no precise parallel or precedent to guide us, by a clearly blazed path, to a correct conclusion."

Kingdoms, republics, and States have been divided—either by force, by violent revolution, or by conquest; or with their voluntary

consent. Never as here by a consent which rested upon a fiction legalized only by post-natal recognition.

Here, too, it is an unquestioned historic fact, alleged in the bill and not controverted in the answer, that very little of the public debt of Virginia would ever have been contracted, but for the votes in the General Assembly of Virginia of the representatives from the counties now constituting West Virginia, in favor of Acts creating that indebtedness.

Here, too, it appears that the debt was in large measure contracted in reliance, not upon the then existing, but upon the future enhanced values primarily of the lands in the Commonwealth. From the first active inauguration of her Internal Improvement System, it, and the public debt contracted in its furtherance, were mainly designed to develop primarily and chiefly the territory of the Commonwealth, but especially the vast mineral and timber resources then locked up in the mountain fastnesses of West Virginia.

The more important, and by far the most costly, of the turnpikes, canals, and railroads munificently aided by the State, and which would never have been otherwise undertaken, all pointed towards, and were designed ultimately to penetrate, or to effectually serve, West Virginia.

It is true that the completion and the extension into West Virginia of the most important and costly of these great projected channels of commerce, were prevented by the War; but by reason of the large sums already spent upon them by Virginia, and her subsequent generous concessions of the works represented by those expenditures to the companies which afterwards extended the Chesapeake & Ohio and the Norfolk & Western Railways into and through West Virginia, large portions of central and southern West Virginia have been given an access to the Atlantic Seaboard and the markets of the country, without which great and rich sections of that opulent young State would, when this suit was brought, have been practically as inaccessible and as undeveloped, as when they were a primeval wilderness.

The schedule printed as Appendix No. 1, pp. 109-110 of our opening brief, affords a conclusive confirmation of the view here presented: for, directly or indirectly, the large expenditures there

stated, and which represents 29/33rds of the public debt of the Commonwealth, went into lines of transportation which now efficiently serve West Virginia, and over which her vast output of coal, lumber and oil moves in increasing volume to the ports and cities of the Atlantic Seaboard, and to the markets, furnaces and factories of the West, Northwest and the Southwest.

Under these circumstances, it is right that territorial areas—the very areas which have been so enormously enhanced in value, in great part at least, by these internal improvements, which in their origin and development represent ultimately large portions of the Virginia debt—should be potential factors in the solution of the problem of West Virginia's share of that indebtedness.

And so, too, should population be: for there can be no productive development, without population; and in these States—particularly in such a State as West Virginia, with such a virile population as during the last one hundred years has inhabited the territory in her present limits—this is especially true.

If we could get fairly at the taxable resources of the two States in June, 1863, they too should be brought into the account: but, by reason of the confusion, destruction, and disturbance of values incident to the War, it is impossible to ascertain reliably or definitely the true taxable values in good money of the two States at that time.

By the terms of its decree the court seems to have wisely considered land as the most reliable, as it certainly is the most stable and uniform, subject of taxation, and form of property to be found in the two States at that or at any other period. But, if the assessed value of land be taken by itself, it would leave out of the account population and extent of territory, both of which should, we submit, be considered under the circumstances existing here. Not only should population be considered because, under such conditions, it is an element, and a creator of economic values; but areas should come into the account. It is manifest from the great enhancement of values in West Virginia shown by Complainant's Exhibit E-3, R. 651, that the mineral and lumber resources—the products of the lands of that State—are realizing the hopes and expectations of the projectors of the Internal Improvement System of Virginia, and that that enhancement has been far more

rapid, and far greater per square mile of territory in West Virginia, than it has been in Virginia.

Is it not right, therefore, that territorial areas should, under such circumstances, be brought into the account?

Now, stating the account accordingly, we have the following result:

West Virginia has 36.1843 per cent. of the total area of the undivided State, upon which basis she would be assigned the following amount of the Virginia debt.—See Master's Report, p. 37; Principal Brief for Virginia, p. 76.....	$12,265,418.88
West Virginia had, in June, 1863, 24.5145 per cent. of the total population of the undivided State, upon which basis she would be assigned (See Master's Report, p. 37, and Principal Brief for Virginia, p. 76)	8,309,698.16
The assessed value of the lands in West Virginia in June, 1863, was 21.7812 per cent. of the total assessed values of lands in undivided Virginia, on which basis, there would be assigned to the New State this amount of the common debt (see p. 37 of Master's Rep.; p. 76 of Principal Brief for Complainant)	7,383,189.44
Combining these and taking the average we have, as the amount of the debt chargeable to West Virginia, as of January 1, 1861, the sum of...	9,652,768.83

Such will be the result if the apportionment of the debt is made upon the basis thus stated, arrived at by combining the three bases as indicated.

Against any such adjustment of the debt, indeed against any assignment to West Virginia of any substantial part of it upon an accounting upon the principles of Equity and International Law, the present leading counsel for West Virginia has in the last ten days, in his oral argument and printed brief, for the first time presented a new international law theory, and a novel proposition in equity jurisprudence for the guidance of the court.

By the application of this newly discovered theory he proposes to relieve West Virginia from any appreciable burden on account of the public debt of the Commonwealth, if the court shall decide this case upon the principles of equity and public law.

The precedents indicated by Senator Spooner do not at all support the rule he advocates as applied to this case; as, for instance: Where a new State constituting or embracing a province or other integral political sub-division of the original State has been cut off from such original State.

The original State owed a debt which bound all of its parts alike. This was a general or national debt, which upon its partition into two States would have to be apportioned ratably among the new States into which it was subdivided.

But such original State, or some of its subordinate provinces, owed special or local debts contracted by such provinces or by the original State in behalf of such provinces; or the avails of which debt were distinctly expended within and for special exclusive and local benefit of such provinces respectively, by or on behalf of which the money represented by such special debt was borrowed.

Now, when such province, having charged upon it such a debt contracted distinctly for its several and separable benefit, is cut off from the original State, and formed into, or becomes part of an independent State, there can be no question that Mr. Spooner is right in the view, that, in such a case, such a debt would continue to be a charge upon such a seceding or withdrawing province; and that such a seceding or withdrawing province would not be liable for any of the special or local debts of the original state, which were similarly local to the provinces or subdivisions thereof which adhered to, or continued to be parts of, the original State.

And so here, county or city debts due by, or contracted in the name and on behalf of, and which were specially charged upon, counties or cities which were and continued to be parts of Virginia after her dismemberment, could not, of course, bind West Virginia.

The distinction and classification which the learned counsel seeks to make find no support in the facts of this case.

The only debt, of which West Virginia is here called upon to bear an equitable share, is the public debt of Virginia existing

prior to January 1, 1861, a debt as well known to the makers of West Virginia as it is to the counsel in this cause, and distinctly recognized in the fundamental constating acts to which West Virginia owes her existence.

The debt, a just and equitable portion of which the makers of West Virginia provided that the new State should assume, was the "public debt of the Commonwealth," statements of which were embraced in the Annual Reports of the Second Auditor of the Commonwealth; and the amount and character of which were known in approximate accuracy of detail to the representative citizens of West Virginia who framed those enactments, a number of whom had also been repeatedly members of the General Assembly, and officials of the unsevered Commonwealth. The learned Counsel, in order to maintain this new contention, in effect, classifies the whole public debt of Virginia as a special and local debt.

The indisputable fact is, that Virginia in 1861 *did not owe one dollar of special or local debt.*

Opposing counsel treats the words "special" and "local" as synonymous, which is not true of them. A debt, as, for instance, one contracted for the building of a capitol, or a penitentiary, for the common use and benefit of all the people of an entire State may, by the terms of its creation, be a special debt, and yet it will be the debt of and binding upon all of the people in every part of such State.

The distinction, for it to avail anything for West Virginia, would have to be between a distinctly *local* and a *general* debt. A local debt might not, and, under circumstances readily conceivable, would not bind a new State detached from the original Commonwealth, if such new State did not embrace the political sub-division or province of the original State upon which such local debt was charged.

The entire records of the Commonwealth from 1820 and prior thereto have been carefully scrutinized by accountants and counsel in this cause, and not one dollar of special, or local, debt has been discovered.

The only debt of Virginia which existed in 1860, or 1861, was what was then well known, and what was correctly defined in

the Wheeling Ordinance and in Article VIII of the first West Virginia Constitution, both written and enacted by West Virginians, as "the public debt of the Commonwealth." It was a general debt, binding the Commonwealth and every part of it alike and as a unit. To be sure, much of it was evidenced by bonds which recited the Acts by authority of which those bonds were issued; but they constituted none the less parts of the public debt of the Commonwealth because so ear-marked.

It was created in carrying out a great general public system of Internal Improvement, in part suggested by Washington, and by Chief Justice Marshall, but formally inaugurated by the creation of the Board of Public Works and the General Internal Improvement Fund in 1816, for the common benefit and general ultimate improvement and development of every portion of the State.

There were a large number of counties in Virginia, as now constituted, in which not a mile of railroad or canal had been built, and yet they shared, more or less remotely and unequally, it may be, in the common benefit to the whole State, and were bound along with the counties through which these public improvements passed for the debts contracted in their construction.

The Acts of the General Assembly of Virginia of March 26, 1853, "Establishing a Sinking Fund," and providing for the payment of the semi-annual interest on and redemption of the public debt, printed at pp. 200 to 205 of the appendix to the record, and chapter 44 of the Code of Virginia of 1860, Idem. pp. 196-199; and the statutes relating to the same subject, Idem. 188, and especially the Act of April 9, 1838, referred to by Mr. Spooner, Idem 191 to 195, show conclusively that the public debt of Virginia was a general, and in no sense a local, or a special debt.

Virginia's public debt was just as much the general debt of the whole Commonwealth, as is the debt of the United States the general debt of the nation. Nor can the burden of such a State debt be apportioned or distributed among the different counties or sections of the State in proportion to the benefits realized by each from the expenditure of the money borrowed, any more than the burden of the National debt can be similarly apportioned among the different States and sections of the American Union.

We would not devote so much space to this artificial, and,

frankness compels us to say, fanciful classification, but for the confidence and earnestness with which an advocate for whose ability and candor we have the greatest respect, seriously pressed it upon the consideration of the court.

If the doctrine of International Law and Equity are applied to the determination of West Virginia's share of the Virginia debt, she will be required to pay her ratable proportion of the public debt of the Commonwealth as the same existed on the 31st of December, 1861, and was recognized in the VIII Article of her first Constitution, to be computed upon such basis as will place upon the new State a just and equitable share of that burden.

The considerations which should be potential in such determination have been already fully discussed, both orally and in the printed briefs.

(2)

WEST VIRGINIA IS LIABLE FOR A JUST AND EQUITABLE PART OF THE PUBLIC DEBT OF VIRGINIA UNDER THE ENACTMENTS OF THE TWO STATES AND OF THE NATIONAL CONGRESS BY VIRTUE OF WHICH THE NEW STATE CAME INTO BEING.

The views of counsel for Virginia as to the respective rights and obligations of the two States under the constating Acts pursuant to the terms of which the new State was ushered into being, if the settlement should be made thereunder, have been fully stated in their principal or opening brief filed at the present term, and will not be reiterated.

The principal consideration and arguments there presented in support of the positions taken have not been answered, if indeed they have been at all discussed, by opposing counsel.

There are, however, a few important points in connection with this alternative aspect of the case which it is of interest to consider.

The view of Virginia is, and has been, that the important thing in this case is, that the result which shall be attained by the final decision of the cause shall be a just, an equitable, and a righteous result.

The matter of the method, or process of reasoning, by which such a result shall be reached is, and has been, one of no moment.

While the Wheeling Ordinance, the West Virginia Constitution (under the provisions of which the consent of the Legislature of "Restored Virginia" and of the Congress was given to her existence as a State), the Acts giving that consent, and the Act of said Restored Legislature of February 3, 1863, transferring to the new State the property and rights of the old State therein defined, were all parts of one great transaction—the dismemberment of Virginia,—it is, and has always been, our view, that the rights and obligations of the two States in reference to the portion of the debt of undivided Virginia to be borne by West Virginia, and the method of its ascertainment, were absolutely controlled by the eighth section of Article VIII of that first West

Virginia Constitution, and the compact necessarily arising from Virginia's consent to her statehood upon those terms.

It is a necessary corollary from this, that the proportion of the debt which West Virginia must pay, must be an equitable proportion, and that, if pursuing the method prescribed by the Wheeling Ordinance, an inequitable result is reached, that method, and that Ordinance must be discarded.

Now, a careful comparison of the results arrived at by fairly applying the method of the Wheeling Ordinance to the facts and figures admitted to be true, will show a remarkable agreement in the results reached by such a computation, with the results produced by an application of the standards, or measures, of West Virginia's liability sanctioned by Equity and Public Law.

After all it is a result which is equitable and just which we desire to attain, and it is of little concern by what process such a result shall be reached.

Now, applying the method prescribed by the Wheeling Ordinance to the facts of the case as the Master has done, but correcting the palpable error into which he was led in his exclusion of the expenditures made by the State in works in West Virginia territory built through the agency of public service corporations, which expenditures amounted to the agreed sum of $1,104,400.85, we have, taking the figures of the Master's Report in all other particulars, the following as the amount due by West Virginia under the Wheeling Ordinance fairly and equitably construed and applied:

(a) Stating the account on the basis of the Wheeling Ordinance, apportioning the ordinary expenses of government on the basis of the white population.—(that is, of the population excluding slaves, who did not then constitute a part of the body politic), as is shown at page 85 of our opening brief, we have as West Virginia's share of the debt on the 1st of January, 1861 ..... $9,910,960.20

(b) Upon the same basis, stated under the Wheeling Ordinance, but following the suggestion

made by Mr. Justice Harlan (II West Virginia Compilation, p. 227), and apportioning the ordinary expenses of the State government on the Federal basis, by which *three-fifths* of the slaves will be counted, we have as West Virginia's share of the debt on January 1, 1861 ..... $7,620,087.59

(See pages 85, 86 and 87, of our opening brief.)

Counsel for both States were agreed that population is the fairest criterion for apportioning the ordinary expenses of the State government. (Brief for Defendant, II West. Va. Compilation, p. 129: Oral argument for Complainant, Idem, pp. 227, 228). The only difference between counsel is, that those for West Virginia insisted that the total population should be taken as the factor, while counsel for Virginia urged that the white population alone should be considered, for the reasons stated in the brief for Virginia (II West Va. Compilation, pp. 157, 158), which seem to us to have great weight, and which we now quote and reaffirm:

> "As to the criterion on which the apportionment of the expenses of government should be made, if this is to be the population, we respectfully submit that in this case it should be the free population—the citizenship—and not the total of the free and the slave population. The care and policing of the slaves cost the State little or nothing. Those matters were regulated by their masters on the plantations. Of course, none of them could vote: but upon the "mixed basis" of representation which was partially adopted in Virginia, they counted to some extent in fixing the basis of representation in the General Assembly: that is, five negroes counted as much as three white men, where the mixed basis prevailed.
>
> "The debt was contracted solely by the votes of the white population or their representatives. It was expended by them or under laws of their enactment. The taxes were levied exclusively upon the property of the free population: and the revenues were appropriated and expended as they directed, and exclusively for their benefit.
>
> "The negroes owed no part of the debt, did not constitute a part of the citizenship of the State during any part of the period when the debt was contracted, or the money

realized from it was expended; nor were they any part of the body politic.

"Under these circumstances we would submit as a just criterion for such apportionment the white population of the territory embraced in West Virginia, and of the territory still remaining to the Commonwealth, at the times when the expenditures to be apportioned were made."

Now, we beg leave, by way of comparison with the amounts thus arrived at under the method prescribed by the Wheeling Ordinance fairly and equitably construed and applied, to give the results reached, if, discarding the Ordinance, we state the account upon the principles of Equity and Public Law reasonably applied to the facts of the case.

Ascertained in accordance with the principles of Equity and Public Law, fairly applied to the facts of the case, we have, as we have already seen, as West Virginia's share of the debt on the 1st of January, 1861:

(a) Computing the same on the combined basis of territorial area, population, and assessed valuation of lands in the two States.....	$9,652,768.83
(b) On the basis of assessed valuation of the lands in the two States taken as the only factor.....	7,383,189.44

And per contra ascertained under the Wheeling Ordinance:

(c) Apportioning ordinary expenses according to white population	$9,910,960.20
(d) Apportioning ordinary expenses according to the Federal basis, counting three-fifths of the slaves	7,620,087.59

The approximation of these results is something more than a coincidence, and goes far to show that an equitable result can and will be attained by pursuing either method, fairly applying the same to the facts of the case.

In view of the long lapse of time since the assumption by West Virginia by the terms of the 8th Section of Article VIII

of her first Constitution of an equitable proportion of the then debt of the Commonwealth and the stipulation thereby made for the payment of the accruing interest thereon, the matter of interest is obviously the most important item in the account between the two States.

That question is so fully considered, and Virginia's equitable right to a decree for interest is so conclusively shown in the treatment of that subject found at pages 94 to 107 of our opening brief upon the present hearing, that we are content to refer the court to that discussion as fairly presenting our views.

Part III of defendant's brief in its complete form was not received by counsel for Virginia until the 2nd and 3rd instant.

It would be impossible in the time permitted for filing this brief to reply to, or even to notice the numerous points made therein; nor is any such reply necessary, for the distinguished counsel has failed to meet the positions taken by the Master, supported as they are by reason and authority, or to answer the arguments submitted in our opening brief in any important particular.

Especially is this true as to the question of classifying the annual interest on the State debt as one of the ordinary expenses of the State.

Defendant's counsel claim that the weight of authority is against such classification.

The Master's report and the opening brief for complainant show that the uniform and practically universal rule of the national, State, city, town and county governments in this country, and as is shown also to be the case as to the governments of Europe, so far as there is any information given on that subject, is to classify interest on a public debt as an ordinary governmental expense; and that this rule is sanctioned by publicists, political economists, and the courts.

Particularly should this rule control in this case, or else palpable inequity would be done; for the season that under the Wheeling Ordinance West Virginia is to be credited with all the taxes which she must have paid into the State Treasury during the debt period on account of that interest. Being given this large credit it would be right that she should also be charged with her just proportion of the annually recurring interest paid out of those

very taxes, as the Master has done; and palpably unjust and inequitable to exonerate her from such a charge.

With this concise response to the elaborate briefs of the learned counsel for the defendant, we respectfully submit this cause to the consideration and judgment of the court.

SAMUEL W. WILLIAMS,
Attorney General of Virginia.

WILLIAM A. ANDERSON,
RANDOLPH HARRISON,
JOHN B. MOON,
Of counsel for Virginia.

February 4, 1911.

CHAP. 344.—An ACT for the retirement of bonds held by schools and colleges, and the issuing of registered certificates therefor, and providing for the payment of interest thereon.

Approved February 23, 1892.

Whereas, the friends of education have voluntarily contributed many millions of dollars for the establishment of schools and colleges in different parts of the State of Virginia, a large portion of which has been expended in the purchase of lands and the erection of suitable buildings thereon, and the residue held as permanent endowments, about two millions of which are in State bonds; and

Whereas, it appears from acts passed by the general assembly in eighteen hundred and sixty-seven, and at various other times since then, to be the settled policy of the State to encourage these efforts for the education of her citizens, and to co-operate with the generous donors of her bonds, by paying full interest thereon so long as they shall be held as endowments for educational purposes; and

Whereas, it is proper that all obligations of the State held by schools and colleges be of the same character, and on the same footing; therefore,

1. Be it enacted by the general assembly of Virginia, That the schools, colleges, and other educational organizations hereinafter named, shall, through their duly authorized officers or agents, on or before the first day of July, eighteen hundred and ninety-two, surrender to the second auditor all evidences of the State's indebtedness which they hold as endowments for educational purposes.

2. That said auditor shall make and keep a record of all bonds and other evidences of the State's indebtedness so surrendered to him, and shall, in the presence of the auditor of public accounts and treasurer, cancel all such evidences of debt, and issue to those by whom they have been surrendered registered certificates of debt for the respective amounts of the bonds and other evidences of debt surrendered by them.

3. That these certificates shall be non-transferable and redeemable at the pleasure of the State, and shall set forth that the State of Virginia is due the respective schools, colleges, and other educational organizations of learning to which they are issued the sums named therein, and that interest thereon shall be paid semi-annually at the rates and for the amounts now paid by the Commonwealth, as set forth in the report of the second auditor for the fiscal year ending September thirtieth, eighteen hundred and ninety-one, including in addition thereto interest on the amount herein named held by the Randolph-Macon's woman's college, at the rates set forth in the bonds it holds, so long as they are held as endowments for educational purposes.

4. That the second auditor shall, upon the first day of January and July of each year, draw his warrant upon the auditor of public accounts in favor of the following holders of the said certificates for the respective amounts due them at the aforesaid rate of interest upon the following sums, to-wit:

Washington and Lee University, upon the sum of two hundred and thirty-six thousand seven hundred and fifty-eight dollars and twenty-three cents.

The Virginia Military Institute, upon the sum of twenty thousand dollars.

Emory and Henry college, upon the sum of six hundred dollars.

Leesburg academy, upon the sum of two thousand and five hundred dollars.

New London academy, upon the sum of six thousand and five hundred dollars.

Randolph-Macon college upon the sum of nineteen thousand seven hundred and eight dollars.

University of Virginia, upon the sum of one hundred and forty-eight thousand and six hundred dollars.

Richmond college, upon the sum of forty-four thousand and seventeen dollars and nineteen cents.

Hall's free school, upon the sum of four thousand and eight hundred dollars.

Seminary and high school, Alexandria, Virginia, upon the sum of fifty-nine thousand and nine hundred dollars.

William and Mary college, upon the sum of thirty-five thousand and nine hundred dollars.

School commissioners of Prince William county, upon the sum of one thousand and four hundred dollars.

Hampden-Sidney college, upon the sum of ninety-six thousand and three hundred and fifty-three dollars and thirty-three cents.

Union theological seminary, upon the sum of one hundred and thirty-seven thousand and six hundred and ninety-five dollars.

Miller manual labor school, of Albemarle, upon the sum of one million and forty-four thousand and eight hundred and sixty-eight dollars and forty-nine cents.

Virginia agricultural and mechanical college, upon the sum of three hundred and forty-four thousand and three hundred and twelve dollars.

Hampton normal and agricultural institute, upon the sum of one hundred and seventy-two thousand and one hundred and fifty-six dollars.

Randolph-Macon woman's college, upon the sum of forty-nine thousand and six hundred dollars.

The Dawson fund, thirty-four thousand one hundred and eighty-seven dollars and sixty-one cents.

5. This act shall be in force from its passage.

STATEMENT OF BONDS EMBRACED IN THE FOREGOING ACT.

Washington and Lee University, upon the sum of..	$ 236,758.28
Virginia Military Institute, upon the sum of	20,000.00
Emory and Henry College, upon the sum of	600.00
Leesburg Academy, upon the sum of	2,500.00
New London Academy, upon the sum of	6,500.00
Randolph Macon College, upon the sum of.....	19,708.00
University of Virginia, upon the sum of	148,600.00
Richmond College, upon the sum of	44.017.19
Hall's Free School, upon the sum of	4,800.00
Seminary and High School, Alexandria, Virginia, upon the sum of	59,900.00
William and Mary College, upon the sum of	35,900.00
School Commissioners of Prince William Co., upon the sum of	1,400.00
Hampden-Sidney College, upon the sum of	96,353.33
Union Theological Seminary, upon the sum of	137,695.00
Miller Manual Labor School of Albemarle, upon the sum of	1,044,868.49
Virginia Agricultural and Mechanical College, upon the sum of	344,312.00
Hampton Normal and Agricultural College, upon the sum of	172,156.00
Randolph-Macon Woman's College, upon the sum of.	49,600.00
The Dawson Fund, upon the sum of	34,187.61
	$2,459,855.85